

**FLOOD CONTROL ADVISORY BOARD
MINUTES
April 28, 2004**

Melvin Martin, Chairman called the monthly meeting of the Flood Control Advisory Board (FCAB) to order at 2:00 p.m. on Wednesday, April 28, 2004.

Board Members Present: Melvin Martin, Chairman; Scott Ward, Vice-Chairman; Dewayne Justice; Hassan Mushtaq (for Thomas Callow); Kent Cooper, Secretary, Paul Cherrington, Ex Officio; Hermant Patel.

Board Members Absent: Thomas Callow, Ex Officio

Staff Members Present: Tim Phillips, Acting Chief Engineer and General Manager; Julie Lemmon, General Counsel; Kevin Costello, County Attorney; Dick Perreault, CIP/Policy Manager; Russ Miracle, Division Manager, Planning and Project Management; Doug Williams, Planning Branch Manager; Linda Reinbold, Administrative Coordinator; Rob Knighton, Planning Project Manager; Emili Kolevski, Project Manager; Dianna Cunningham, Lands Property Manager; Mike Alexander, Director of Finance; Harry Hollander, Organizational Development, Greg Jones, Regional Area Planning Manager; John Hathaway, Acting Flood Hazard Branch Manager; and BJ Johnston, Clerk of the DRB.

Guests Present: Ed Fritz, MCDOT; Tom Sands, SRP; Tim Montgomery, HDR; Allan Zimmerman, City of Chandler; Ron Hemmer, NRCS; Teri George, DEA; Jeff Low, Town of Cave Creek; Wayne Anderson, Town of Cave Creek; Brian Fry, Dibble & Assoc; Herman Aristizahal, Entellus; Bill Gau; Steve Cornell; Carol Cox; Steven Forrester; Larry Foote; Roger Baker.

1) APPROVAL OF THE MINUTES OF THE MEETING OF MARCH 24, 2004.

ACTION: It was moved by Mr. Cooper and seconded by Mr. Justice to approve the minutes as submitted. The motion carried unanimously.

2) 26TH AVENUE AND VERDE LANE DETENTION BASIN AND STORM DRAIN PROJECT – RESOLUTION FCD2004R002.

Emili Kolevski, Project Manager presented Resolution FCD2004R002 which authorizes the District to negotiate Intergovernmental Agreements with the City of Phoenix to define the District's and the City's responsibilities for the 26th Avenue and Verde Lane Detention Basin and Storm Drain Project. This item was held over from last month based on concerns voiced by Supervisor Wilcox. District representatives met with Supervisor Wilcox to discuss the concerns regarding the ADOT basin.

Discussion:

Justice: Are we taking out houses here?

Kolevski: Yes, about 23.

Ward: I have a question, if I may. Emili, Tim, is the reason for this problem the freeway?

Kolevski: Mr. Chairman, Mr. Ward, the flooding in this area occurs mainly because this area is lower than the surrounding area. There are some problems caused by I-17 and the elevation of Thomas Road, but it is basically because this area is a lot lower than the surrounding areas.

Ward: Is there anyway we can channelize this water without removing those homes?

Phillips: Mr. Chairman, Mr. Ward, no, because, as Emili said, it is a unique situation. They are in a bowl, so that is where the water is going to go. Channelizing it doesn't really solve the problem because you can't collect it all at the top; you still have to have a place to put it. Hasan can probably speak to this also. The city looked at all the different alternatives for this and found that the best alternative is to take out the 23 homes.

Kolevski: Mr. Chairman, Mr. Ward, I can add to that. The amount of flow that we're looking at here is about 3000 csf. Looking at all of the different alternatives for this project, when handling this regional flow of 3000 cuffs, there is really nothing else that can be done. This project doesn't really address controlling the 3000 cuffs, what it does are keeping it separate hydraulically from the local flooding that occurs.

Ward: So, you couldn't create little catch basin areas then pipe it to a basin as an alternative? Or is that too cost prohibitive?

Phillips: In essence, that is what we are doing is catching it and conveying it to a basin. However, the basin needs to be constructed where these houses are located, because there isn't another place to put the basin. The ADOT basin only holds about 8% of the volume, so it would be grossly undersized to be used as a regional facility. The outfall from that basin is actually higher than the ground elevation where the homes are located. You could conceivably have water filling the basin that if there were other water coming in, would also back over into the homes. So the ADOT system is a local fix for the freeway, not a regional fix that we can use to our advantage. Is that correct?

Kolevski: Yes. I don't know if you can see from this diagram, but the houses are there to the left. They are ½ to 1 foot below the outfall of the ADOT basin. Even if we deepened the basin, with the outfall where it is, no matter what happens, when that 3000 cuffs hits that basin, these houses are going to get flooded. The only way to protect these houses is to keep this system totally separate.

Ward: So basically, it goes into this basin then goes into the ADOT basin?

Martin: Where is the outfall for the basin?

Kolevski: Mr. Chairman, there is a flap gate on the 27th Avenue storm drain and when the peak flow from the 27th Avenue system passes and the flap gate opens then our basin would drain into the 27th Avenue system.

Ward: So it isn't going to impact additional housing?

Kolevski: No, that is the whole point of keeping it separate.

Mushtaq: Mr. Chairman, Mr. Ward, these are all concepts we have talked about and eventually, this was the one feasible solution that we all agreed on. Looking at the elevations of the ADOT basin, the situation over at the canal, we feel that this is the best possible solution with the money we have available.

Ward: My concern is with moving these people out of the neighborhood. We hate to break up neighborhoods but if we have to do it, if we have to have the property for public safety, we have no alternative.

Phillips: Mr. Chairman, Mr. Ward, in fact that was Supervisor Wilcox's concern. She indicated that she had spoken with some of the folks out there and that they clearly understand the situation. It's a question of whether you want to be repeatedly flooded or do you want to see if there is another opportunity for you. I think at this point, everything I have heard, this is an acceptable solution for the city and for the residents. We would like to have a solution that didn't require that we buy out the homes but there doesn't appear to be one available to us.

Ward: I will say that Supervisor Wilcox told me that she did personally canvas the area and she found no one who objected to selling. In fact, some people further north wanted to sell.

Patel: I know in the past when we were in very tight positions, we went forward with projects that did not provide 100-year protection. Was an analysis done here to determine if we could do a 50-year protection without buying out the homes?

Kolevski: Mr. Chairman, Mr. Patel, actually we did look at a 5-year solution and even that alternative required that we buy out approximately 70 homes, because what was required for the 5-year regional solution was 192 acre-feet.

Martin: Has anyone done a study regarding how much excess water comes off the access road of the freeway? They have one drain there. I was down there when it was raining real hard and that little basin they have there at Verde Lane and the access road is just not big enough. That is what was causing the water to backup on Verde Lane. Is that where that house shown in the presentation is located?

Kolevski: It is on the south side of Verde Lane, I'm not exactly sure where. Perhaps Hasan might be able to answer the questions regarding the drainage there at Verde Lane and 27th Ave.

Martin: The problem I think you're talking about is that it will stop the water we are bringing in but it isn't going to stop the water coming from the freeway. That is what concerns me. Obviously, ADOT didn't put a big enough catch basin in there.

Kolevski: Mr. Chairman, from what I've seen, most of the flooding occurs at Verde Lane and just east of 27th Avenue. That is where most of the flows originate. I am not sure what happens at the access road for I-17.

Cherrington: You indicated that you would be setting up a meeting with SRP and the City of Phoenix. Do you know whether or not the three houses SPR has concerns over are a part of these houses to be included in the buy out?

Kolevski: Mr. Chairman, Mr. Cherrington, I haven't had that verification from Paul Driver at the city. However, we are pretty sure that the houses affected by the SRP issue are the ones that are going to be taken out. We haven't verified that yet, but we are pretty sure that is the case.

ACTION: It was moved by Mr. Cherrington and seconded by Mr. Mushtaq to approve the item as submitted. The motion carried unanimously.

3) WHITE TANKS NO. 3 FRS REHABILITATION PROJECT, IGA FCD2004A006.

Tom Renckly, Structures Management Branch Manager, presented IGA FCD2004A006 for the cost sharing, planning, design, rights-of-way acquisition and construction for the White Tanks No. 3 FRS Rehabilitation Project.

Cooper: I am wondering what percentage of the budget goes to aesthetics?

Renckly: Mr. Chairman, Mr. Cooper, if you look at the total project cost, including the construction, aesthetics, rehabilitation of the bar area, overburden, the design, there is roughly \$3.2 million in this project for the aesthetics treatment.

Justice: Why is NRCS not participating in the upstream landscaping cost?

Renckly: Mr. Chairman, Mr. Justice, We had the head architect of the NRCS national landscaping division here in January. We discussed the project in detail, took them out to the site, and discussed the intent. I think the primary response from NRCS was that on the upstream side there is currently quite a distance before you have any kind of buildings there. There is really nothing between the upstream side and the foothills of the White Tanks. So they view that as not necessary from that perspective. They did participate in the downstream side because of the development downstream.

Cherrington: Has anyone determined the cause of the settlement?

Renckly: Mr. Chairman, Mr. Cherrington, as far as the settlement and potential earth fissure risk zone, those are both due to ground water pumping, which causes land subsidence. It does vary depending on the substrata and the amount of ground water pumping. There is differential settlement, in that the south end

has moved very little and the north end has lowered 4 to 4 ½ feet. We have that at several of our structures and we monitor it very closely.

Cherrington: And the pumping will continue, so the design is in anticipation of that situation?

Renckly: Excellent question. We had a highly technical discussion today with our consultants and others pertaining to that. The discussion was around how much overbuild do we put into this project for future land subsidence. And there will be overbuild in this structure. The current estimate is that we will build a foot into the structure and have the ability to readily add another foot by just adding more material to the top of the structure. That would be 2 feet over the 100-year plan. That is our current estimate.

Ward: Sir, who was responsible for negotiating with NRCS?

Renckly: We negotiated the agreement with the local NRCS office.

Ward: I just want to applaud you; I think it is a job well done. Knowing the condition we have with some of our dams, I know how difficult it is to get federal funding for a county project. To go through those levels of bureaucracy, especially to come up with that amount of money, I just think that is a job well done.

Renckly: Mr. Chairman, Mr. Ward, we appreciate that. We also have a NRCS representative, Ron Hemmer, in the audience. We certainly couldn't have done it without them. They fought hard for this funding. This funding is for the first phase. Ron developed most of the work plan. He spent many hours, including weekends, because of the tight schedule we had on this project. The \$6 million in funding represents approximately 15-20% of the national program. That is quite a chunk of the national program that they were able to get for us. We are very happy.

Justice: In response to your question regarding subsidence, there maybe some, but there is not going to be as much subsidence as we've had in the past. Most of that occurred before the 1980's and ADWR, as you are aware, placed drainage regulations on the area. So the changing use of that land affects the site and the amount of groundwater pumping.

Ward: So you're saying the water table has raised out there?

Justice: Yes, it has. During the wet cycle, we had some very significant change. The wells have been fairly stable now for several years, in some cases during the heat events there have actually been some increases. At one point, the flow actually reversed and was flowing back to the north; the overuse of the water table in the past caused the reverse of that flow. It has stabilized.

Renckly: We did look at MAG projections on populations and whatnot and try to estimate, but it is difficult to estimate. There are some technical reasons also where even if you had the same amount of groundwater pumping by the fact that it is deeper, you won't get as much subsidence.

ACTION: It was moved by Mr. Justice and seconded by Mr. Cherrington to approve the item as submitted. The motion carried unanimously.

4) CAVE CREEK DRAINAGE MASTER PLAN, RESOLUTION FCD2004R006

Doug Williams, Planning Branch Manager presented Resolution FCD2004R006, which authorizes the Chief Engineer and General Manager of the Flood Control District to initiate the Cave Creek Drainage Master Plan Study and associated topographic mapping; to negotiate and prepare Intergovernmental Agreements for cost sharing of the study and topographic mapping; to negotiate and award technical service contracts for topographic mapping and planning studies; and to negotiate rights-of-entry, subject to the ratification and approval of the Board of Directors and subject to funding to be approved in the District's FY 04/05 Budget

ACTION: It was moved by Mr. Patel and seconded by Mr. Cooper to approve the item as submitted. The motion carried unanimously.

5) UPDATING OF THE FLOODPLAIN REGULATIONS, THE DRAINAGE REGULATIONS, POLICIES AND PROCEDURES FOR MARICOPA COUNTY

Amir Motamedi, Acting Regulatory Division Manager, presented an overview of the current project of updating the floodplain and drainage regulations. There are currently 10 documents that are in various stages of development. Final documents will be ready for review by the Board within a few months. This item is for information only. No action is required at this time.

Discussion:

Patel: I have a particular interest in the cost recovery analyses of the consultant that you hired. What are they looking at? Is it total cost in terms of overhead or are they also looking at the capital items?

Phillips: Mr. Chairman, Mr. Patel, it is really to cover our internal costs. It is not a funding mechanism for our Capital Improvement Program. It is strictly to look at the cost for us to provide the Title 11 drainage administration service and to obtain cost recovery on that, as well as the floodplain administration portion of the business, the regulatory process and get cost recovery of that. We are looking to get 100% cost recovery because the people who are benefiting from that effort are the ones that should be paying for it. We recognize that not knowing what the end result of the dollars are going to be that there may be a decision on whether or not we do ultimately get full cost recovery. The fee study that is being done is being based on what type of fees we would need to charge to obtain 100% cost recovery.

Patel: So, it is more of an accounting type study.

Phillips: Absolutely. What does the permit cost? How do we spread the cost of providing that service to them within the fees that we charge for inspection and other things? Ultimately our intent is that those two pieces of the pie essentially become what the county refers to as an enterprise fund. These would be separate

and distinct funds that pay for the service or recovers its own cost over time, so these services are not competing for the other operating funds to cover their costs.

Patel: Now the other piece, in terms of recovering the capital improvement funding. Another question has come up, when we are taking on a project, we wonder whether the town that is sponsoring the project is being reimbursed by the developer and us. In other words, is the town double dipping? Can some of that be covered through a policy manual where the District says that the cities have to have some sort of funding program for new development and set standards that they need to meet to make it work?

Phillips: Mr. Chairmen, Mr. Patel, I think you know that Russ and I have been working with all the communities on the cost share policy. That is really where that piece will come in. In the next month or two, you will begin to see the results of our discussions, at least as far as different alternatives. That is a separate and distinct piece from that. Another thing that we recognize is that the District has a fiscal policy and we need to reassess our fiscal policy and decide exactly how we are going to do business. The cost share program is an overall element of that fiscal policy and we will need to update that also.

Martin: Julie, if we revise the sand and gravel guidelines, is that going to affect the lawsuit that we have going on now?

Lemmon: Mr. Chairman, I want to make sure I understand the question. If we revise our sand and gravel guidelines, will that affect our current enforcement?

Martin: No, we have a lawsuit pending, right?

Lemmon: Actually we have Rockland, Raven Rock and TRP. Those are the ones that are actively in court.

Martin: Now if we change the guidelines, can that be used against us in court?

Lemmon: Mr. Chairman, members of the Board, I think that if we were to make a change that was inconsistent with what we are doing at the current time, someone might make that claim. However, the issues in the current enforcement cases are pretty basic to our jurisdiction to regulate sand and gravel. The sand and gravel guidelines basically build on that assumption that we have jurisdiction and how we are going to exercise that jurisdiction. So I would say that this would not affect the cases that are currently active because they are challenging our jurisdiction. The sand and gravel guidelines grow out of our ability in the floodplain regulations to regulate sand and gravel as development in the floodplain. That is crux of the challenges that we have with the regulatory program. At this point, the parties that were involved in the GTI litigation, except for Grant Goodwin, the others that intervened have subsequently signed stipulations agreeing that the District does have regulatory authority and agreeing to abide by our floodplain regulations. So in that case, all but one of the entities has agreed that we do have regulatory authority. I guess the short answer is that I don't think it is going to be a problem but I certainly will be alert to it. I've been working as much as possible with the groups that are doing this regulation, as has

Kevin Costello, who I will introduce to you shortly. Kevin has been working with the drainage group. We are trying to make sure that we don't inadvertently cause a problem.

Martin: That was my concern when I saw that they were changing the guidelines. That's why I brought that up.

Lemmon: Thank you. We are trying to be alert, Mr. Martin. I always appreciate anyone's input. If you read the document and see something that seems inconsistent to you, please bring it to our attention. We want to be sure that no matter what document you are using there is no inconsistency.

At 3:00 pm the FCAB suspended their meeting to convene the Drainage Review Board that was scheduled for that time. Immediately after the Drainage Review Board meeting the FCAB meeting was reconvened to continue with the remaining items on the agenda.

6) FISCAL YEAR 2004 – 3RD QUARTER FINANCIAL COMPARATIVE REVIEW

Mike Alexander, Chief Financial Officer presented the 3rd Quarter financial review.

Discussion:

Martin: Thank you very much Mike. Very good job.

Phillips: Mr. Chairman, I would just like to take a moment to brag on the staff. We have really done a good job paying attention to both the operating budget that Mike does and the CIP budget that Dick does. The project managers are managing the projects, keeping track of the dollars. When we are going into the end of year having spent about 95% of the operating and CIP budgets, then we are indeed doing what the taxpayers are paying us to do. We are using the money they have given us; we're using the money to put flood hazard mitigation in the ground. The only thing I would like would be able to unleash some of the other dollars that we have, so that we could do more. But the money we are being given, we are using. We are spending the money given to us. I think that is a credit to the staff, they are paying attention to the details and making sure that we are doing the things we said we were going to do.

Ward: I have a question. In my conversations with you, Mike Ellegood, and others in the department, let's say that you keep a really tight watch on the funds and have a surplus of money. Are we going to have OMB come in and say, "We want that money"? Is someone going to come in and take that money from us? We could really use this money to do topographic mapping throughout the county to help get ahead of the development. I am just concerned that you have done a really good job keeping a thumb on the dollars, is someone going to come in and see that and appropriate those funds?

Phillips: Mr. Chairman, Mr. Ward, I guess the way I would answer that is that financially the District is it's own legal entity and the finances have to stay here. The money that was accumulated for flood control purposes has to be used for flood control purposes. I'm sure that Julie would agree, that money accumulated through the District has to be used for flood control purposes. Having said that and knowing

that things aren't always as they seem or as we want them to be, we are going to do everything to ensure that no one can see the advantage of our having a fund balance and accuse us of not spending all the money we've been given. That has been our goal. If you're not spending the money, are you not more of a target of opportunity when someone else needs money? So, our goal has been to utilize what we have to the greatest degree possible and hold off any wolves that might want some of our money.

Ward: To continue on that same thought, if we sell land and generate \$10 million in revenue, is that District money to be used for CIP and advance mapping?

Phillips: Yes, because the land was originally purchased with District funds. So it is an asset of the District and when it is sold the returns from the sale belong to the District.

7) COMMENTS FROM THE CHIEF ENGINEER AND GENERAL MANAGER

Phillips: Mr. Chairman, I just have a couple of items. As you know, we have Greg Jones and Russ Miracle meet with you every month before the board meeting to bring you up to speed on things that are going on. That seems to have been very successful over the pass several months. My question is whether or not any of the other board members would like to take advantage of this also. Would you like to have a standing meeting before the Advisory Board meeting to go over the agenda and what is going to be presented to see if you have any questions? We could do that as a whole, or individually, if you have an interest. We would be happy to do this if you see any value in it.

Patel: What would be valuable is to have more information included in the packages that we receive. Copies of the IGA's and presentation material a week or so prior to the meeting would help us get up to speed.

Phillips: Maybe we can serve both purposes by meeting with you. Gentlemen, the challenge for us is to get it all together far in advance of the meeting. It would be great if we could hand you the presentations far enough ahead of time, the problem is that we are still working on them the week before the meeting. Sometimes, we are making changes up until the day before the meeting, so we are a little reluctant to hand you a presentation that far ahead of time. However by meeting face to face we can certainly go over what we know at that point in time, and give you basically everything we know coming into the meeting.

Cooper: Tim, I would think that if when you send the book out and a member of the board had a particular interest in an item, they would call you and request a briefing. I think that would suffice. Personally, I think that when we have a project, and I know that the staff looks at all the alternatives, if the engineers or project managers could provide us with that basic information, then we could see the project clearer by understanding what alternatives were considered. What we are doing now is seeing one particular alternative and we may not understand why that particular alternative was chosen. For instance, there was an item previously where we couldn't understand why a particular site was chosen for a project in Peoria when the site wasn't even in the city. Later we found out that the property

had already been purchased. That information wasn't even in the presentation. It would be helpful if we knew what information was used to come to the alternative chosen.

Phillips: Sometimes that is a timing issue also. Because we do bring the alternatives to you and tell you what the recommended alternative is but it might have been a year ago when that conclusion was reached. There is a timeframe when you don't remember so much of what happened in the past. You see a lot of items so it is easy to get confused. We will do whatever we need to do to get you better informed.

Cooper: A couple of comments. It seems to me that the materials that we get are sometimes so vague we don't even know what you're doing. That was the reason why I asked for additional material. I tried the same strategy myself. It would seem to me that if the meeting is scheduled for today that the material would be ready in advance of the meeting. There is a deadline for the presentation material and if that deadline were one week prior to the meeting, you would have all the material available. It's all about when you set the deadlines for the materials. So, I think there is a happy medium. My complaint is that often we have a resolution and a map. When you read the resolution and look at the map, it isn't always clear. Whereas, if we had the information from the presentation, everything would make more sense.

Perreault: Mr. Chairman, members of the Board, I have taken into account all of your comments. And I can tell you, Mr. Cooper is right, if the deadline was yesterday, the material would have been complete the day before. I can tell you that with all the things the staff is doing, this is a very important one. Actually, I look forward to these meetings because they are a deadline and it gets things going and people focus on it. I send a list out to the staff, and my policy is that if I don't hear from you in two or three days, you are on the agenda. We do have cancellations and reasons why things are postponed. One of the comments is that you are not getting enough information; there is a lot more information available than you are even aware of, and the amount of information would make the size unmanageable. We don't want to overwhelm you with information. One of the things we could do is have more information agenda items. But that is going to mean longer agendas for you. If you'd like to see more interim items, we can do that but it will mean that the agendas will get longer. We try to balance the agendas to 4-6 items per month. Some of them are relatively easy items; some take a great deal more effort. So it is up to you how you would like to handle it.

Cooper: If you could just include some of the information from the presentations in our packages, we could be more informed. There would also be fewer questions.

Perreault: Mr. Chairman, Mr. Cooper, would it be acceptable if on the Friday prior to the meeting we emailed the presentations to you? Of course, we'll have to mark them Draft as they are subject to change. But we can email them to you prior to the meeting, if you like.

Patel: I don't think the technical content is going to change and that is pretty much what we are interested in seeing.

Martin: We're still seeing only one alternative.

Perreault: That's where the interim presentation would be helpful. They wouldn't be for action, only informational purposes.

Phillips: I would suggest that we try to balance all these alternatives. The presentations that are available the Friday before the meeting, we can email them to you. If there is additional technical information that we can put into the packages, if it's a review of a presentation that had the alternatives, say a year before, then we can attach that also so you will have the past history. We'll see if we can provide you with additional information whenever possible. We want you to be well informed.

Justice: Obviously, some of the diagrams, charts and graphs that are presented in the slides are done well beforehand. It would help make things clearer, particularly for those areas that we may not be familiar with.

Phillips: We will endeavor to do better.

On that note, next month you will see the 26th Avenue & Verde IGA, Cave Creek IGA, the Sand and Gravel Guidelines. These guidelines are a supplement to the floodplain regulations. There may also be information on the revised floodplain regulations. The Joint FCAB/TAB meeting is scheduled for June 8th at 9am. Mike Ellegood and I will develop the agenda, please put that on your calendars.

Lemmon: Mr. Chairman, after you have finished your last agenda item, we will need to adjourn and reconvene as the Drainage Review Board. There are some interested people here who missed the meeting. So, we will need to do that.

The meeting was adjourned at 3:20pm